

HARLEY MILLER,

Plaintiff,

VS.

DR. JOHN COE,

Defendant.

Case No. 16-cv-314-SMY-RJD

ORDER

DALY, Magistrate Judge:

Plaintiff Harley Miller, an inmate at Dixon Correctional Center, brought this action for deprivations of his constitutional rights pursuant to 42 U.S.C. § 1983. Following an entry of judgment in Defendant's favor, Plaintiff filed an appeal. By order dated August 15, 2018, Plaintiff was granted leave to proceed *in forma pauperis* under 28 U.S.C. § 1915 for his appeal (Doc. 73). Plaintiff was assessed an initial partial filing fee of \$1.84. The remainder of the \$505.00 filing fee was to be collected pursuant to Section 1915(b)(1), which directs prison officials to collect 20% of the preceding month's income, each time the prisoner's account exceeds \$10.00. On September 27, 2018, the Seventh Circuit Court of Appeals ordered Plaintiff to show cause why his appeal should not be dismissed for failure to pay the initial partial filing fee.

In the instant motions (Doc. 80 and 81), Plaintiff alleges that Dixon has refused to comply with the Court's order and explains that he now has a negative balance of \$949.92 due to litigation fees and expenses. Plaintiff requests that this Court order Dixon to remit and forward an initial partial filing fee of \$1.84.

For clarification, collection of filing fees in prisoner civil cases is governed by 28 U.S.C. § 1915(b), which provides:

(1)The court shall assess and, when funds exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee of 20 percent of the greater of–

(A) the average monthly deposits to the prisoner's account; or

(B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.

(2) After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency having custody of the prisoner shall forward payments from the prisoner's account to the clerk of the court each time the amount in the account exceeds \$10 until the filing fees are paid.

IT IS THEREFORE ORDERED that, for these reasons stated, Plaintiff's motions (Docs. 80 and 81) are **GRANTED to the extent** that the Court has reiterated the statutory method of collection.

IT IS FURTHER ORDERED that a copy of this order shall be sent by the Clerk of Court to the Warden and the Trust Fund Officer of Dixon Correctional Center. Payments toward filing fees must be collected in the manner prescribed by 28 U.S.C. § 1915(b) and as ordered by the Court. Plaintiff's motion is **DENIED** in all other respects.

IT IS SO ORDERED.

DATED: December 17, 2018

s/ Reona J. Daly
Hon. Reona J. Daly
United States Magistrate Judge